

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

SHANE JOSIAH KIRK,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-21-259-SLP
)	
CITY OF DUNCAN, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff Shane Josiah Kirk filed this action against various state and federal Defendants in their official and individual capacities. *See* Pro Se Prisoner Civil Rights Compl. [Doc. No. 1]. On July 9, 2021, United States Magistrate Judge Suzanne Mitchell issued a Report and Recommendation [Doc. No. 9] pursuant to 28 U.S.C. § 1915A in which she recommended that this case be dismissed for lack of jurisdiction and improper venue and that the Court deny Plaintiff’s pending “Motion for Order” [Doc. No. 8] as moot. *See* R. & R. [Doc. No. 9], at 24.¹


¹ At the time of Judge Mitchell’s Report and Recommendation, Plaintiff was awaiting trial on two counts of first-degree murder in Stephens County, Oklahoma. On August 19, 2021, the state court found Defendant not guilty by reason of mental illness in an Order of Acquittal on the Grounds of Insanity and Post Acquittal Psychiatric Evaluation. *See State v. Kirk*, Case No. CF-2017-369, District Court of Stephens County, State of Oklahoma, available at www.oscn.net. The Court takes judicial notice of Petitioner’s state court proceedings. *See United States v. Ahidley*, 486 F.3d 1184, 1192 n.5 (10th Cir. 2007).

Plaintiff filed an Objection [Doc. No. 15] to the Report and Recommendation.² The Court has reviewed de novo those portions of the Report and Recommendation to which Plaintiff made specific objections. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); *see also United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Having reviewed Plaintiff's objections to the Report and Recommendation de novo, the Court concurs with Judge Mitchell's analysis therein, and the Court adopts the same.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 9] is ADOPTED in its entirety and this matter is DISMISSED WITHOUT PREJUDICE. A separate judgment of dismissal shall be entered contemporaneously with this Order.

IT IS FURTHER ORDERED that the Motion for Order [Doc. No. 8] is DENIED AS MOOT.

IT IS SO ORDERED this 13th day of January, 2022.


SCOTT L. PALK
UNITED STATES DISTRICT JUDGE

² Although the Objection was electronically filed on September 28, 2021—after the September 2 deadline—the Court will consider it timely because it is postmarked August 20, 2021. *See* Doc. Nos. 11, 15-1.